

REMARKS

Claims 67-85 are pending and under examination. Claims 67 has been amended. Support for the amendment can be found throughout the specification and the claims as filed. In particular, support for the amendment to claim 67 comes from the incorporation of dependent claims 80-83 and 85 into independent claim 67 in the form of a Markush group. Claim 84 has been cancelled without prejudice or disclaimer. Applicants reserve the right to pursue this claim in a further application.

Accordingly, this amendment does not raise an issue of new matter and entry thereof is respectfully requested.

Obviousness-type Double Patenting

Claims 67-69, 76, and 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent 6,743,769 (`769 patent; Office Action at item 3, pages 2-3). Claims 67-69 also stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-8 of U.S. Patent 7,067,621 (`621 patent; Office Action at item 4, pages 3-4). Without addressing the merits of the Examiner's rejections, Applicants will submit terminal disclaimers to the `769 and `621 patents under separate cover.

Rejection under 35 U.S.C. §103

The rejection of claims 67, 68, and 84 under 35 U.S.C. §103(a) as being unpatentable over Darveau et al. U.S. Patent 5,409,898 is traversed.

Without addressing the merits of the Examiner's rejection, Applicants submit amended claim 67 which incorporates the elements of claims 80-83, and 85. Because claims 80-83 and 85 were only objected to based on their dependence from claim 67, Applicants assert claim 67 is now in condition for allowance. Claim 68 depends from claim 67 and should be patentable for at least the same reasons. Claim 84 was cancelled by way of amendment rendering its rejection moot. Applicants respectfully request withdrawal of this rejection.

Application No.: 09/648,816

In light of the amendment and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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